

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LARRY M. JOHNSON,

Petitioner,

vs.

ANTHONY KANE, Warden,

Respondent.

No. C 06-04233 JW (PR)

ORDER DENYING REQUEST FOR  
CERTIFICATE OF APPEALABILITY

(Docket No. 11)

This is a habeas case under 28 U.S.C. § 2254 filed pro se by a state prisoner challenging the denial of parole by the Board of Parole Hearings. The Court denied the petition for a writ of habeas corpus on September 28, 2009. Petitioner filed a notice of appeal and request for a certificate of appealability on October 6, 2009. (Docket No. 11.) The request of a certificate of appealability is DENIED as unnecessary because a state prisoner challenging the Board of Prison Hearings' administrative decision to deny his request for parole need not obtain a COA. See Rosas v. Nielsen, 428 F.3d 1229, 1232 (9th Cir. 2005).

The clerk shall transmit the file, including a copy of this order, to the Ninth Circuit Court of Appeals. See Fed. R.App.P. 22(b); United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

DATED: October 19, 2009

  
JAMES WARE  
United States District Judge

UNITED STATES DISTRICT COURT  
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LARRY JOHNSON,

Petitioner,

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Case Number: CV06-04233 JW

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 10/26/2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Marc Jonathan Zilversmit  
Attorney at Law  
523 Octavia Street  
San Francisco, CA 94102

Dated: 10/26/2009

Richard W. Wieking, Clerk  
/s/ By: Elizabeth Garcia, Deputy Clerk